

REMARKS

Claims 1- 23, 27-45 and 47-48 are pending upon entry of this amendment. Claims 24-26 and 46 were cancelled without prejudice. Applicants reserve the right to pursue the subject matter of these cancelled claims at a later time. Claims 17 and 27 were amended. Support for the new claims 47 and 48 are found in the specification at page 4, line 12. Applicants submit that the amendment is supported fully by the specification and no new matter has been introduced by the amendment.

Applicants thank the Examiner for indicating that claims 1-16, 44, and 45 are allowed.

Applicants address each outstanding issue as follows:

Withdrawal of claims as directed to non-elected invention

The Examiner withdrew from examination claims 23-43 and 46 as being directed to non-elected invention. Claims 24-26 and 46 were canceled. As to claims 23, 27-43, Applicants respectfully traverse the withdrawal. Pending claims 23, 27-31 are dependent on claim 17, and claims 32-43 are dependent on claim 1 or 17. As dependent claims, claims 23 and 27-43 do not encompass an invention that is separate and distinct from the invention originally claimed as claim 1 or 17 and under examination.

Whenever a generic, linking claim is found to be allowable in substance, action on the species claims shall be given as if the generic claim were allowed. See MPEP 809.02(e). When a claim generic to two or more claimed species is found to be allowable in an action on the merits, and the withdrawn claims are all in the form required by 37 C.F.R. 1.141 and no more than a reasonable number of species are claimed (see MPEP809.02(b)), in which case the previously withdrawn species claims must be rejoined (see MPEP 809.02(c)(B)(1)) and fully examined for patentability under 37 C.F.R. 1.104. See MPEP 809.04.

Claim 1 is a generic claim with the species of the genus recited in claims 32-43, and claim 17 is a generic claim with the species of the genus recited in claims 23 and 27-43. In the previous Office Action, the Examiner found claim 1 to be allowable. Applicants submit that claim 17 is now in condition for allowance as explained below. Applicants respectfully submit

these claims, because they are all fully dependent on the allowable generic claims, are all in the form required by 37 C.F.R. 1.141. Applicants further submit that no more than a reasonable number of species are claimed. As such, the withdrawn species claims are fully embraced by the allowed generic claims, and there is no need to elect a single species. Accordingly, all species claims that were previously withdrawn should be rejoined and fully examined for patentability.

Further, the Examiner alleged in the rejection reasons below that claim 17 as previously presented was indefinite as being incomplete for omitting essential elements, namely the actual disease conditions. If recitation of the actual disease conditions is essential to claim 17, claims 23 and 27-31, which are dependent on claim 17 and recite the disease conditions, cannot be separate and distinct inventions.

Applicants respectfully request that these claims be examined together as the same invention as the previously presented claims.

Rejection under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 17-22 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention, and for allegedly being incomplete due to omission of essential elements, namely the actual disease conditions being treated.

Claim 17 was amended to exclude cancer as a disease condition that is dependent on angiogenesis. Applicants submit that the implication of angiogenesis and neovascularization was widely recognized as pervasive in a number of widely varied disease conditions at the time the present application was filed, and that it is sufficient and appropriate to describe the applicable diseases in the language the Examiner alleges is incomplete. Further, Applicants submit that claims 23 and 27-31 recite specific diseases for which the claimed method is particularly applicable. Applicants respectfully submit that, should the Examiner maintain this reason for rejection of claim 17, claims 23 and 27-31 should not be subject to the same rejection reason and therefore be allowable.

Rejection under 35 U.S.C. §102

The Examiner rejected claims 17-22 under 35 U.S.C. §102 as anticipated by Raz et al. (U.S. Pat. No. 5,895,784.) The Examiner states that because claims 17-22 do not recite particular diseases, and Raz discloses treatment of cancer, the claims are anticipated when tumors are selected as the disease condition. Applicants have amended claim 17 to exclude cancer as a disease condition.

In view of the above amendment and remarks, Applicants believe the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. GLYO-P02-007 from which the undersigned is authorized to draw.

Dated: October 25, 2005

Respectfully submitted,

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